REMARKS/ARGUMENTS

Claims 13-18, 20-22, 24-39, 45-48, 50, 51, 53, 54, 56, 58 and 59 are currently pending in the application. Based on the following remarks, Applicant respectfully requests reconsideration and allowance of all the claims.

I.   Rejection of Claims 13-18, 21, 22, 24-39 & 47-58 Under 35 U.S.C. § 103(a)

Claims 13-18, 21, 22, 24-39 and 47-58 stand rejected under 35 U.S.C. § 103(a) as being allegedly unpatentable over Lebel et al. (U.S. Patent Appln. Publn. No. 2003/0009203; hereinafter "Lebel") and Kosmynin (U.S. Patent Appln. Publn. No. 2001/0054084; hereinafter "Kosmynin").

In contrast to claim 13 Lebel, taken individually or in combination with Kosmynin, does not teach or suggest and is altogether silent regarding an apparatus comprising a processor configured to, *inter alia*: (A) generate *content* comprising *validation data and other data* which *comprises software*, the content being stored at the apparatus; and (B) *download the content* to *a terminal*, upon receipt of a signal transmitted by the terminal to connect to the apparatus. The validation data of the content downloaded from the apparatus being configured to permit the terminal to determine whether the content was securely downloaded and that the content originated from the apparatus. The processor is configured to *download the content* by *downloading* the *validation data* and *the other data concurrently* from the apparatus *together in a single download file*.

A. Download Content Comprising Validation Data & Other Data Concurrently In Single File

In rejecting claim 13, the Examiner relies on paragraphs [0017], [0021], [0125]-[0126], [0141]-[0143], [0145], [0156] and [0159] of Lebel, alone or in combination with Kosmynin, as allegedly disclosing the above features of claim 13. (See pgs. 2-3 of the Office Action) In contrast to claim 13, the cited portion and indeed all of Lebel, alone or in combination with Kosmynin, at most discloses that downloading may occur from an external communication device to an implantable device. (paragraphs [0141]-[0142] of Lebel) In this regard, Lebel explains that downloading may be initiated by using an inbound load start message that includes

an overall validation code (e.g., CRC) for a program that is to be downloaded. (paragraph [0143] of Lebel) Lebel, alone or in combination with Kosmynin, also explains that the software of the program may be downloaded from a non-volatile memory module in the external communication device. (paragraphs [0143]-[0145] of Lebel) Additionally, Lebel, alone or in combination with Kosmynin, describes that "[d]ownloads then occur using one or more inbound load continue messages each having data portions (**excluding op-code and validation code**)." (paragraph [0143] of Lebel) (emphasis added)

In view of the foregoing, Lebel, alone or in combination with Kosmynin, at most discloses that an inbound load start message containing a validation code (e.g., CRC) may be sent from the external communication device to an implantable device. In this regard, Lebel, alone or in combination with Kosmynin, describes that after receiving the validation code, downloads of data portions from the external communication device may occur using one or more inbound load continue messages that "exclude[s] ... [the] validation code." (paragraph [0143] of Lebel)

Claim 13 recites, *inter alia*, an apparatus comprising a processor that generates *content* comprising *validation data and other data* which *comprises software*, the content being stored at the apparatus and *downloading the content* to *a terminal*. The processor is configured to *download the content* by *downloading* the *validation data* and *the other data concurrently* from the apparatus *together in a single download file*. The combination of Lebel and Kosmynin does not teach or suggest at least this feature of claim 13 since as described above the "validation code (e.g., CRC)" of Lebel, alone or in combination with Kosmynin, is sent to the implantable device in an inbound load start message and then the software is downloaded using a series of inbound load continue messages that excludes the validation code.

In contrast to claim 13, the combination of Lebel and Kosmynin, at most, discloses that the validation code and the software are downloaded to the implantable device in separate messages such as an inbound load start message and inbound load continue messages. As such, Lebel, alone or in combination with and Kosmynin, does not teach or suggest *downloading content* by *downloading validation data* and *the other data comprising software concurrently* from the apparatus *together in a single download file*, as recited by claim 13. For at least this reason, the combination of Kosmynin and Lebel is deficient.

B. Evaluate Mime Data & Header to Determine Correct Content & Authorized Apparatus

Claim 13 also recites, *inter alia*, that (A) the validation data comprises a download transport protocol header and mime data which identifies the content and a type of the software, wherein the (B) terminal is configured to evaluate the mime data to determine whether the content is correct and evaluate the header to determine whether the apparatus is an authorized apparatus which is an approved source for downloading the content.

In rejecting claim 13, the Examiner relies on paragraphs [0345], [0408] and [0476] of Kosmynin, alone or in combination with Lebel, as disclosing these features of claim 13. (See pg. 3 of the Office Action) In contrast to claim 13, the cited portion and indeed all of Kosmynin, alone or in combination with Lebel, at most discloses "MIME encoded objects" that may be included in headers during a downloading stage so that when a client interprets the MIME encoded object, the client may extract metadata from the message.

However, detecting MIME encoded objects in a header in order to extract metadata from a message, as at most disclosed by the combination of Kosmynin and Lebel, does not teach or suggest any validation data that comprises a download transport protocol header and mime data identifying content and a type of software, as recited by claim 13. Additionally, a client detecting MIME encoded objects in a header in order to extract metadata from a message does not teach or suggest evaluating the MIME encoded objects to determine whether downloaded content is correct and evaluating a download transport protocol header to determine whether an apparatus is an authorized apparatus that is an approved source for downloading content, as also recited by claim 13.

For at least these additional reasons, Applicant submits that the combination of Lebel and Kosmynin is deficient and does not teach or suggest all of the features of claim 13. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of claim 13 and its dependent claims 15, 16, 25, 30, 35, 47, 48 and 50.

Since independent claims 14, 17, 18 and 20 contain features analogous to, though not necessarily coextensive with the features recited in claim 13, Applicant submits that independent claims 14 and 17 and their respective dependent claims 21, 22, 26, 31, 36, 51, 53 and 27, 32, 37 and 54 as well as independent claims 18 and 20 and their respective dependent claims 28, 33, 38,

56 and 24, 29, 34, 39 and 58 are patentable at least for reasons analogous to those submitted for independent claim 13.

II.   Rejection of Claims 45, 46 & 59 Under 35 U.S.C. § 103(a)

Claims 45, 46 and 59 stand rejected under 35 U.S.C. § 103(a) as allegedly being unpatentable over Lebel, Kosmynin and Nonaka et al. (U.S. Patent No. 7,073,073; hereinafter "Nonaka"). Applicant respectfully traverses this rejection for at least the following reasons.

As discussed above, Lebel and Kosmynin, taken individually or in combination, are deficient vis-à-vis independent claims 13 and 20 and Nonaka does not make up for the deficiencies of Lebel, alone or in combination with Kosmynin, and is not cited for such. Accordingly, claims 45, 46 and 59 are patentable at least by virtue of their respective dependencies from claims 13 and 20. Applicant therefore respectfully requests the Examiner to reconsider and withdraw the § 103(a) rejection of dependent claims 45, 46 and 59.

III.   Conclusion

In view of the foregoing remarks, Applicant respectfully submits that all of the claims of the present application are in condition for allowance. It is respectfully requested that a Notice of Allowance be issued in due course. Examiner Sax is encouraged to contact Applicant's undersigned attorney to resolve any remaining issues in order to expedite examination of the present application.

It is not believed that extensions of time or fees for net addition of claims are required, beyond those that may otherwise be provided for in documents accompanying this paper. However, in the event that additional extensions of time are necessary to allow consideration of this paper, such extensions are hereby petitioned under 37 C.F.R. § 1.136(a), and any fee required therefore (including fees for net addition of claims) is hereby authorized to be charged to Deposit Account No. 16-0605.

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